

**NOT FOR CITATION**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DARIN FIELDS, et al.,

Plaintiffs,

v.

CHERNE CONTRACTING CORP.,

Defendant.

No. C 03-4854 PJH

**ORDER DENYING PLAINTIFFS' MOTION  
FOR LEAVE TO FILE MOTION FOR  
RECONSIDERATION**

Before this court is plaintiffs' August 10, 2005 letter, which the court construes as a motion for leave to file a motion for reconsideration of the court's denial of plaintiffs' request for bifurcation of the trial pursuant to Civ. L. R. 7-9.

The court notes that there is a dispute of fact concerning whether Fields was the only witness to at least some of the racial graffiti in question. Compare Aug. 10 letter at 1 (claiming that neither Cherne nor plaintiffs stated that Fields was the only person who saw graffiti in the bathrooms) with Cherne Further Briefing re Motion to Sever at 2 (stating that Cherne would expect to call Fields in any bifurcated proceeding because "he is the only person who witnessed some of the racial graffiti."). Given this dispute of fact, Cherne would be permitted to call Fields as a witness in their own case and raise the issues concerning his credibility at a bifurcated trial against plaintiffs Hurd and Wallace as well.

The ruling denying bifurcation in the final pretrial order remains in effect, and Plaintiffs' motion for leave to file a motion for reconsideration is DENIED.

**IT IS SO ORDERED.**

Dated: August 15, 2005

  
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PHYLLIS J. HAMILTON  
United States District Judge